

Remarks

4. Claim 25 was objected to and in response applicant has amended claim 25 such that it now depends from amended independent claim 24. Applicant respectfully requests that this objection be withdrawn and that the currently amended claim 25 be allowed.

5. Claim 7 was rejected under 35 U.S.C. §112, second paragraph on the grounds it did not distinctly claim the invention. Applicant has amended claim 7 such that currently amended claim 7 distinctly claims the invention. Applicant respectfully requests that this rejection be withdrawn and the currently amended claim 7 be allowed.

6. Claims 1-3 and 6-8 are rejected under 35 U.S.C. §102(b) as being anticipated by Cohen '194. Cohen '194 discloses a paperboard blank 10 having six panels including first and second interior divider panels 12, 14, respectively, and first, second, third, and fourth outer wall panels 16, 18, 20, 22, respectively. Scoring 13, 15, 17, 19, and 21 is formed between the panels, and divider panel 12 has a tab 42 that is receivable in a slit 44 formed between the outer wall panels 18, 20, respectively. The trap is assembled by folding divider panel 12 such that the tab 42 moves into the slit 44. The other divider panel 14 is similarly folded inward to thus form a rectangular shaped enclosure 25. The Examiner indicates Cohen shows an insert having a first portion 12, a middle portion 18, and a third portion 22, with the first portion 12 and middle portion 18 joined along a fold line 13, and the middle portion 18 and third portion 22 joined along a fold line 17.

Anticipation requires that Cohen '194 disclose each and every element of independent claim 1, as those elements are arranged in the claim. Independent claim 1 is for an insect control product having an insert and calls for a first side and an oppositely facing second side, a first portion, a middle portion, and a third portion, with the middle portion connected to the first portion along a fold line and the third portion connected to the middle portion along a fold line. Cohen '194, which is for an entirely different article, does not disclose this identical structure. In addition, it appears that Cohen '194 was modified by the Examiner such that panels 16 and 20 and divider panel 14 were eliminated, and the scoring indicated at reference numbers 15 and 17

also was eliminated, so that the Cohen '194 product could be used for the anticipation rejection. These significant modifications that had to be made to Cohen '194 show that Cohen '194 does not disclose the elements of claim 1 as they are arranged in the claim. All of this weighs heavily in favor of a finding that independent claim 1 and dependent claims 2-3, 6, and currently amended claims 7-8 are not anticipated.

In addition, it does not appear to applicant that Cohen '194 discloses an insert of any type. Independent claim 1 is for an "insert" for an insect control product. The Merriam-Webster's Collegiate Dictionary, eleventh edition, defines the word "insert" as noun and "something that is inserted or is used for insertion . . ." Cohen '194 does not disclose anything that is inserted, but rather discloses a foldable rectangular shaped enclosure 25 formed from integral panels and integral divider panels. There is no insert disclosed in Cohen '194 in the manner claimed by applicant. This weighs heavily in favor of a finding that the Cohen '194 reference does not anticipate independent claim 1 and dependent claims 2-3 and 6-8. Thus, applicant respectfully requests withdrawal of the rejections of claims 1-3 and 6-8 and that these claims be allowed.

7. Claims 1 and 24 are rejected as being anticipated by U.S. Patent No. 5,438,792 to Monett et al. for insect traps. Monett et al. discloses an enclosure 40 formed from a blank. There is a composite planar sheet 30 adapted to be housed in the enclosure 40. The composite sheet 30 has sections 15 having apertures 14 and openings 16, and the composite sheet 30 is folded along fold lines A-A', B-B', C-C', D-D', and E-E'. The composite planar sheet 30 comprises an upper sheet member 12 and a lower sheet member 12', with an adhesive sheet 20 positioned between them, forming a triple-layered structure. When the composite sheet 30 is folded like an accordion it is positioned within the enclosure 40.

Anticipation requires that Monett et al. disclose each and every element of independent claim 1, as arranged in the claim. Independent claim 1 is for an insect control product having an insert and calls for a first side and an oppositely facing second side, a first portion, a middle portion, and a third portion, with the middle portion connected to the first portion along a fold line and the third portion connected to the middle portion along a fold line. Monett et al. does not disclose this identical structure. Rather, Monett et al. is for an entirely different structure because

it discloses a triple layered composite sheet having upper and lower sheet members with an adhesive sheet between them, and there are openings formed in the upper and lower sheet members. In addition, Monett et al. does not disclose the elements of claim 1 as arranged in claim 1. As such, applicant respectfully requests reconsideration, that the rejection of claim 1 be withdrawn, and that claim 1 be allowed.

Currently amended independent claim 24 calls for “the formula applied on a coated region of the first side leaving the third portion of the first side noncoated, and the formula applied on a coated region on the second side leaving the third portion of the second side noncoated.” This claimed structure is not disclosed in Monett et al. Therefore, applicant respectfully requests withdrawal of the rejection of currently amended claim 24 and that currently amended claim 24 be allowed.

8. Claims 4-5, 9, and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cohen ‘194 on the basis of obviousness. Applicant reiterates the arguments set forth in paragraph 6 above that Cohen ‘194 does not disclose an insert, but rather discloses integral panels and dividers. In addition, currently amended claim 4 now recites “the first portion of the first side is noncoated”, and currently amended claim 5 now recites “the third portion of the second side is noncoated.” Nowhere does Cohen ‘194 teach or suggest this claimed subject matter. Also, currently amended claim 9 calls for “the coated region of the first side covers the middle portion . . . the coated region of the second side covers the middle portion” In FIG. 1 of Cohen ‘194, a side of the unfolded rectangular shaped enclosure 25 is shown. The Examiner designated divider panel 12 as the “first portion,” the second outer wall panel 18 as the “middle portion”, and fourth outer wall panel 22 as the “third portion.” Amended claim 9, however, calls for both the first and second sides of the insert to have coated regions, and Cohen ‘194 nowhere discloses or suggests that that the second side of the divider panel 12, second outer wall panel 18, and fourth outer wall panel 22 and can or should be coated. Therefore, applicant respectfully requests reconsideration and that the rejections of currently amended claims 4, 5, and 9 be withdrawn and that these claims be allowed.

Amended claim 10 calls for “opposed first tabs . . . opposed second tabs.” Cohen ‘194 nowhere discloses opposed tabs. In addition, the Examiner indicates that reference numbers 36,

38 in Cohen '194 are a "second tab." Applicant respectfully disagrees with this characterization, because 36, 38 form an "end enclosure" as indicated in the Cohen '194 reference. These two parts are joined to one another and they are bendable relative to one another, and as such there is too much structure present for these components to be called a tab. Furthermore, the Cohen 194' reference actually discloses a tab 34, and the tab designated 34 is one piece.

Therefore, currently amended claims 4-5, 9, and 10 are believed to be nonobvious, and as such, applicant respectfully requests the withdrawal of the rejection of claims 4-5, 9 and 10 and that these claims be allowed.

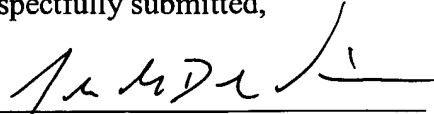
9. Claims 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Monett et al. on the basis of obviousness. Monett et al. is described above. Monett et al. discloses a composite planar sheet having upper and lower sheets having openings, and an adhesive sheet is sandwiched between them. The adhesive sheet can be accessed through the openings in the composite planar sheets. An insect walks on the adhesive sheet and sticks to the adhesive sheet and is thus trapped.

Currently amended claims 25 and 26 each depend from currently amended claim 24. Amended claim 24 recites a "formula applied on a coated region of the first side leaving the third portion of the first side noncoated, and the formula applied on a coated region on the second side leaving the third portion of the second side noncoated." This claimed structure is significantly different from what is disclosed in Monett et al. Nowhere does Monett et al. show, disclose or suggest the claimed first portion of the first side being noncoated and the third portion of the second side being noncoated. Rather, Monett et al. only discloses a composite sheet folded like and accordion and having fold lines where portions of the composite sheet meet at a sharp angles. These sharp angles contact the interior of the enclosure disclosed in that reference. Therefore, currently amended independent claim 24 and currently amended claim s 25 and 26 are believed to be nonobvious. Applicant respectfully requests that the rejection of claims 25 and 26 be withdrawn and that these claims be allowed.

10. New claims 31-35 are drawn to additional aspects of applicant's invention noted upon further review of the instant application.

11. Applicant respectfully requests favorable action and that claims 1-10, 24-26 and new claims 31-35 be allowed.

Respectfully submitted,



John M. Del Vecchio

Reg. No. 42,475

Hodgson Russ, LLP
One M&T Plaza, Suite 2000
Buffalo, New York 14203
(716) 848-1644
jdelvecc@hodgsonruss.com

BFLODOCS 1147066 v1